

May 3, 2004

Re: MDR #: M2-04-1109-01-SS
IRO Certificate No.: 5055

In accordance with the requirement for TWCC to randomly assign cases to IROs, TWCC assigned your case to ___ for an independent review. ___ has performed an independent review of the medical records to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this care for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is Board Certified in the area of Orthopedic Surgery and is currently listed on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

1. TWCC-60, Table of Disputed Services, EOB's
2. Carrier correspondence, designated doctor exams 02/17/04, 09/16/03, 05/06/03
3. Correspondence and treatment documentation from ____, ____,
4. ____, ____, ____, ____, ____, ____ from 06/13/02 thru 03/01/04.
5. Physical therapy notes from 03/31/03 thru 12/23/03.
6. FCE 10/29/03; neurology consultation 06/25/03.
7. Lumbar discogram 03/01/04, epidural steroid injection 09/22/03, pin removal X3 06/09/03, removal of hardware, fusion, fixation 03/03/03, open reduction, bone graft, open reduction, fixation 10/25/02, pin removal & manipulation 09/23/02, various procedures 06/14/02.
8. MRI lumbar spine 05/27/03, CT left wrist 02/06/03, CT left wrist 09/09/02, MRI lumbar spine 08/19/02, various views 06/13/02.

Clinical History:

According to the designated doctor examination dated 2/17/04 this patient was injured in a fall while at work. The patient's low back hurts all the time.

Neurologically, he was found to be intact with the exception of a slight decrease in toe strength with dorsiflexion on the left great toe. MRI report dated 5/27/03 impression in part reads:

1. minimal to moderate size disc herniation of L5-S1 and to the left extending to the neural foramina with compression of the S1 nerve root and thecal sac, foraminal stenosis bilaterally hypertrophy of the facet with disc desiccation;
2. disc protrusion and diffuse disc bulging at L4-L5 without H&P;
3. early spinal and foraminal stenosis bilaterally due to hypertrophy of the facet joints and disc desiccation.

Discogram performed 3/1/04 demonstrated concordant pain at L4-L5 and reproduced pain with lifting at L5-S1. The M.D. who saw this patient on 10/17/03 diagnosed a limbus vertebra at L5 and 2-level degenerative disc disease not related to the injury. This physician reviewed a surveillance video, which he states shows the patient lifting a 35-pound child into the bed of a pickup truck, carrying a case of beer bottles, and repeated episodes of bending and twisting. This physician stated that the patient has symptom magnification and was not a candidate for surgical intervention.

Disputed Services:

Anterior disc replacement, interbody fusion, interbody fixation at L4-5 & L5-S1, posterior decompression, lateral mass fusion and segmental pedicle screws fixation.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the procedures in dispute as stated above are not medically necessary in this case.

Rationale:

According to Chapman's Operative Orthopaedics, 3rd Edition, Chapter 145, *Degenerative Disc Disease*: Evaluation of degenerative disc disease requires exclusion of other causes of pain. In the absence of red flags, a long trial of non-operative treatment is indicated. Should symptoms continue, a progressive preoperative evaluation including psychosocial assessment is mandatory. In some circumstances, dual-level surgery may be justified; however, results of multi-level fusion for painful disc degeneration are dismal, and it is best avoided.

We are simultaneously forwarding copies of this report to the payor and the Texas Workers' Compensation Commission. This decision by ___ is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings **within ten (10) days** of your receipt of this decision (28 Tex. Admin. Code 142.5©)

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings **within twenty (20) days** of your receipt of this decision (28 Tex. Admin. Code 148.3)

This Decision is deemed received by you **five (5) days** after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5 (d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings
Texas Workers' Compensation Commission, MS-48
7551 Metro Center Dr., Ste. 100
Austin, TX 78744-1609

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on May 3, 2004.

Sincerely,